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OFFICE OF PETITIONS

In re Application of Randi L. Schindler :
Application No. 09/152,992 :
Filing Date: September 14, 1998 :
Attorney Docket No. 05-10022 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

The petition fee has not been paid. The merits of the petition will not be considered until the petition fee has been paid.

Petitioner must submit the petition fee of \$750.

Petitioner may only pay \$605 if petitioner proves an original petition under 37 CFR 1.137(b) and the fee were mailed to the Office on March 31, 2000. Office records fail to indicate receipt of the petition or check. If petitioner proves the petition and check were filed on March 31, 2000, petitioner may submit \$605 for the petition fee rather than \$750.

The current evidence is insufficient to prove the petition and fee were properly mailed on March 31, 2000. Petitioner has submitted a copy of the prior petition and check. The prior petition included a certificate of mailing signed by Helen Benninger, an employee of Kleinberg. However, a statement by Ms. Benninger, or a member of Kleinberg, has not been submitted. In order to prove the petition was timely mailed, 37 CFR 1.8(b)(3) requires petitioner supply a statement by a person with personal knowledge, or a statement to the satisfaction of the Commissioner, that the correspondence was in fact timely mailed or transmitted. Attorney Hoffman is not a party with personal knowledge concerning the mailing of the petition.

As a courtesy, the Office notes that the inventor of record is Randi L. Schindler and not Randi L. Black. One may not change the name of an inventor by simply having an inventor sign papers using a different name. Per MPEP 605.04(c),

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be

directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

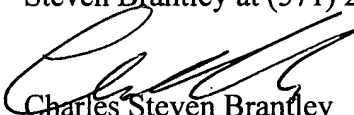
By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

If a request for reconsideration is not filed, the application will remain abandoned and be returned to Files Repository.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions